

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN
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P O R T H U R O N

NOTICE OF AMENDMENTS TO LOCAL RULES

On September 8, 2003, the Judges of the United States District Court for the Eastern District of Michigan approved amendments to the following Local Rules effective October 1, 2003:

- LR 83.10, Assignment of Cases to Places of Holding Court
- LR 83.11, Assignment and Reassignment of Civil Cases to Judges
- NEW LR 5.1.1, Filing and Service by Electronic Means
- NEW LCrR 49.1, Filing and Service by Electronic Means

Pursuant to Fed. R. Civ. P. 83 and E.D. Mich. LR 83.1(a), proposed amendments to these LR's were published for comment in the Michigan Bar Journal and legal newspapers in the district.

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LR 83.10 Assignment of Civil Cases to Places of Holding Court

(a) Counties and Places of Holding Court. Except as provided in LR 83.11, civil cases arising in or related to one or more of the following counties shall be assigned as provided in (b):

(1) Genesee, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Sanilac, Shiawassee, Washtenaw and Wayne counties for which the places of holding court are Detroit, Ann Arbor, Flint and Port Huron.

(2) Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw and Tuscola counties for which the place of holding court is Bay City.

(b) Assignment of Cases. Civil cases shall be assigned by the Clerk to a place of holding court by reference to the counties in (a) in the following order of priority:

(1) If an action is removed from State Court, the county in which the case was pending in State Court (28 U.S.C. § 1441(a)).

(2) If an action is local in nature, the county in which the real estate is located.

(3) The county in which a plaintiff resides.

(4) The county in which the claim arose.

(5) In a case in which a defendant is an officer or employee of the United States or any agency

thereof acting in his or her official capacity, or under color of legal authority, or an agency of the United States, the county in which an office of a defendant is located.

(6) A county in which a defendant resides or has a place of business.

(7) The place of holding court in which the case is filed.

(c) **Improper Assignments.** A case improperly assigned to a place of holding court shall be transferred to the proper location by order of the Court.

LR 83.11 Assignment and Reassignment of Civil Cases to Judges

(a) Random Method for Assignment of Cases to Judges.

(1) In Ann Arbor, Detroit, Flint and Port Huron, the Clerk shall employ a random method for the assignment of civil cases (excluding social security cases and special civil cases) to Judges. Special civil cases are defined as those cases arising under 28 U.S.C. §§ 2241 and 2254 and 42 U.S.C. §§ 1983 and 1985 in which the plaintiff is an inmate or resident of any facility of the Michigan Department of Corrections, the United States Bureau of Prisons, or of any county or local jail.

(2) In Bay City, the Clerk shall assign civil cases to the Judge regularly holding court in Bay City.

(3) In Ann Arbor, Bay City, Detroit, Flint and Port Huron, the Clerk shall employ a random method for the assignment of social security cases and special civil cases to Judges.

(4) A case in which a three-Judge court is requested under 28 U.S.C. § 2284 shall be assigned by random method regardless of the place of holding court in which the case is filed.

(5) Assignment of cases to the Chief Judge, to Senior Judges, and, in cases of emergency, to Judges in active service, shall be as provided by administrative order of the Court.

(6) Miscellaneous matters shall be assigned to a judge at the place of holding court where the miscellaneous matter is filed.

(b) Reassignment of Civil Cases.

(1) Cases shall be reassigned only by order of the Court.

(2) To promote docket efficiency, or to conform to the requirement of any case management plan adopted by the Court, or upon consent of the parties, or after notice and hearing, or in the interests of justice, the Chief Judge may order a civil case to be reassigned, but only with the consent of the Judge to whom the case was originally assigned and with the consent of the Judge to whom it is to be reassigned.

(3) To promote judicial efficiency in cases not requiring reassignment under these Rules, the Judges, after notice to the parties and opportunity to respond, may jointly order consolidation of some or all aspects of related cases.

(4) Reassignment of cases because of a change in judicial personnel shall be in accordance with an administrative order authorized by the Court.

(5) Successive *habeas corpus* petitions challenging the same conviction or sentence regardless of grounds asserted shall be assigned to the Judge to whom the original petition was assigned or to the Judge who is appointed to fill the vacancy of that Judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(6) Motions for relief filed under 28 U.S.C. § 2255 shall be assigned to the Judge who imposed sentence on the defendant or to the Judge who is appointed to fill the vacancy of the sentencing Judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(7) Companion Cases.

(A) Companion cases are those cases in which it appears that:

- (i) substantially similar evidence will be offered at trial, or
- (ii) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.

(B) Counsel, including the United States Attorney, or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the civil case cover sheet.

(C) When it becomes apparent to the Judge to whom a case is assigned and to a Judge having an earlier case number that two cases are companion cases, upon consent of the Judge having the earlier case number, the Judge shall sign an order reassigning the case to the Judge having the earlier case number.

(8) Matters arising from a civil, special civil (as defined in (a)(1)), or miscellaneous case assigned to (1) a judge who has retired from the court, or (2) a senior judge no longer receiving special civil or miscellaneous cases, will be assigned to the judge who is appointed to fill the vacancy of that judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(c) Refiled, Dismissed and Remanded Civil Cases.

(1) If an action is filed or removed to this Court and assigned to a Judge, after which it is discontinued, dismissed or remanded to a State Court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the civil case cover sheet.

(2) When it becomes apparent to the Judge to whom a case is assigned that the case has been previously filed in this Court and assigned to another Judge and has later been discontinued, dismissed without prejudice or remanded to a State Court, the two Judges shall sign an order reassigning the case to the Judge who had been assigned the earlier case.

(d) Disqualification of Judge.

When a Judge to whom a case is assigned is disqualified from hearing it, the Clerk shall reassign the case in accordance with (a)(1) or (a)(3).

COMMENT:

Because each place of holding court has its own sequential numbering system, the “earlier case number” referred to in (b)(7)(C) will mean the earlier case filed as determined by date and time. (12/4/00)

Miscellaneous matters referred to in LR 83.11(a)(6) include, but are not limited to, the following:

- 1) matters sealed in the early stages of criminal proceedings;
- 2) registrations of judgment from other districts;
- 3) actions to enforce administrative subpoenas and summons;
- 4) proceedings ancillary to an action pending in another district, e.g., deposition subpoenas
- 5) supplementary proceedings brought in aid of execution;
- 6) applications for writs of habeas corpus *ad testificandum* or *ad prosequendum*;
- 7) appointments of counsel under the Criminal Justice Act;
- 8) disciplinary proceedings for attorneys;
- 9) incoming letters rogatory.

NOTE: Any of these may be changed into a civil case if contested before a district judge.

LR 5.1.1 Filing and Service by Electronic Means

(a) Filing. The Clerk will accept papers filed, signed and verified by electronic means beginning March 1, 2004 in accordance with this Rule. All papers filed by electronic means must comply with technical standards in the Court’s Electronic Case Filing (ECF) Policies and Procedures. See Appendix ECF. Papers must also comply with the requirements of LR 5.1.

(b) Governing Rules and Procedures. All papers filed by electronic means will be governed by the Court’s Local Rules, ECF Policies and Procedures, and orders of the Court. The ECF Policies and Procedures will specify those papers which may not be filed, signed and verified by electronic means.

(c) Scope and Effective Date. This Rule shall apply to all papers (not simply cases) filed March 1, 2004 and thereafter.

(d) **Service.** Papers may be served through the Court's electronic transmission facilities as authorized by the Court's ECF Policies and Procedures beginning March 1, 2004. Transmission of the Notice of Electronic Filing constitutes service of the paper on each party in the case registered as a filing user. Service of papers on other parties must be according to the Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

(e) **Judge's Copies.** Judge's copies need not be provided unless the judge requests them. Furnishing a judge's copy shall not constitute filing.

(f) **Facsimile Transmission.** For purposes of this LR, filing by electronic means does not include filing by facsimile transmission.

COMMENT:

The Court will maintain electronic case files for all civil cases.

With regard to (e), parties are advised to visit the judges' practice guidelines section of the Court's web site to determine the preferences of individual judges.

LCrR 49.1 Filing and Service by Electronic Means

LR 5.1.1 governs filing and service by electronic means.

COMMENT:

The Court will maintain electronic case files for all criminal cases.